

June 11, 2004

Thomas M. David
13725 SW 73 CT
Miami, FL 33158

RE: REQUEST FOR ADVISORY OPINION 04-106

Dear Mr. David:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 10, 2004 and rendered its opinion based on the facts stated in your request.

According to the facts submitted in your letter, you were employed by the County from March 26, 2001 until June 12, 2003. Initially, the County Manager's office employed you as an Executive Assistant to the County Manager; however, on July 5, 2001 your title was changed to Assistant County Manager.

As indicated in your request, you would like to lobby [as the term is defined under the Conflict of Interest and Code of Ethics Ordinance] the County and its various departments on behalf of individuals and business entities. You argue, inter alia, that you are not precluded from lobbying under the two-year rule given that subsection (q) of the Code of Ethics does not mention specifically your former job classification with the County.

The Ethics Commission concluded that you are prohibited from lobbying Miami-Dade County and its various entities for a period of two (2) years after your County employment has ceased. This would be June 12, 2005.

Under the Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1(q)(1) "Continuing application for two (2) years after County service," provides that,

No person who has served as an elected official, i.e. mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall for a period of two (2) years after his or her county employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether, direct or indirect...Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a county department or agency during the two (2) year period after his or her county service has ceased.

Section 2-11.1 (s), "Lobbying" of the Conflict of Interest and Code of Ethics Ordinance states that a lobbyist is defined as someone who seeks to encourage the passage, defeat or modifications of 1) ordinance, resolution, action or decision of the County Commission; 2) any action, decision, recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a county board or committee.

Therefore, you are prohibited from making presentations on behalf of third persons and business entities before County Selection Committees, County boards and agencies, the Board of County Commissioners and its boards, committees and subcommittees. This prohibition is broad and covers any activity where you are publicly identified as part of a lobbying team. [See RQO 01-38, where the Ethics Commission opined that a former County employee could not engage in such activities, but was not prohibited from attending quasi-judicial hearings and County Commission

meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team.] However, the provision does not preclude you from submitting routine administrative requests or applications, such as filing documents or requesting information.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director